

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Wen Wei

Application No.: 10/748,385

Filed: 12/29/2003

For: FRONT SIDE HOT-SWAP
CHASSIS MANAGEMENT
MODULE

Examiner: Bui, Hung S.

Art Group: 2841

Confirmation No.: 8161

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In the 3rd Office Action mailed June 19, 2006 ("3rd Office Action"), claims of the above-captioned application were rejected for a third time. Applicants hereby appeal this decision of the Examiner to the Board of Patent Appeals and Interferences according to 35 U.S.C. §134 and submit a Notice of Appeal in compliance with 37 C.F.R. §41.31 contemporaneously with the present request. Prior to the filing of the Appeal Brief, Applicants respectfully request that a panel of examiners formally review the legal and factual basis of the rejections in the above-captioned application in light of the remarks to follow.

REMARKS

In the 3rd, and Final, Office Action claims 1-6 and 11-16 are rejected under 35 USC 103(a) as allegedly being unpatentable over Patriche (6,499,609) (hereinafter Patriche) in view Bishop et al. U.S. 2002/0149911 (hereinafter Bishop).

In an attempt to simplify the issues remaining in this case, with Applicants response filed August 18, 2006, the Applicant has offered to cancel independent claims 1 and 11 and rewrite claims 2 and 12 in independent form. However, as indicated in the Advisory Action dated September 6, 2006, the amendment has not been entered.

To establish obviousness under 35 U.S.C. § 103, the Examiner must view the invention as a whole. Further, the Examiner is to perform the obviousness analysis in accordance with the standard set forth by the Supreme Court in *Graham v. John Deere Co.* That standard requires that the Examiner (1) determine the scope and content of the prior art; (2) ascertain the differences between the prior art and the claims in issue; (3) resolve the level of ordinary skill in the art; and (4) evaluate evidence of secondary considerations. 383 U.S. 1, 17-18 (1966); see also MPEP 2141. Further, in applying the Graham framework, the Examiner must consider the invention as a whole, without the benefit of hindsight. MPEP 2141. Further, In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

It is respectfully submitted that the examiner is misinterpreting and misapplying both *Patriche* and *Bishop*. Furthermore, it is respectfully submitted that the examiner is using hindsight, and is picking and choosing elements in each of the references that have little or no correlation to the elements as recited Applicant's claims. This is illustrated at least in that the Examiner arbitrarily designates *Patriche's* shelf unit 14 (a structural support for a plurality of printed circuit boards) as correlating to a Chassis Management Module as recited by applicant in the claims.

Claims 1 and 2 of the present application recite:

1. A modular platform, comprising:
 - a chassis having a front side and a back side, and configured to receive modular platform boards;
 - a plenum associated with the chassis ; and
 - at least one chassis management module designed to at least partially control and at least partially ensure proper operation of the modular platform boards and to be removably disposed in the at least one plenum in a substantially parallel relationship with a flow of a cooling medium passing through the plenum.
2. The modular platform of Claim 1, wherein the plenum is a dual plenum and the chassis management module is positioned substantially vertical in the dual plenum.

Independent claim 11 and dependent claim 12 respectively include similar recitations.

Claims 2 and 12 when viewed as a whole, with recitations found in claims 1 and 11 from which they depend, are directed toward a modular platform with two distinct sets of elements disposed within the modular platform in different places. Each set of elements also provides distinct functions for the modular platform. Specifically, modular platform boards are configured to be received by a chassis, and at least one Chassis Management Module is removably disposed in a dual plenum, i.e. they are in different places. In addition, the Chassis Management Module is designed to at least partially

control, and at least partially ensure proper operation of the modular platform boards, i.e. they provide distinctly different functions.

In rejecting claim 1, the examiner arbitrarily selects two of Bishop's electronic modules (26, 28) and promotes them to Chassis Management Modules in an attempt to meet the claim language of claim 1. Then in an attempt to meet applicant's positional limitation recited in claim 2, i.e. "wherein the plenum is a dual plenum and the Chassis Management Module is positioned substantially vertical in the dual plenum" the Examiner arbitrarily selects Patriche's shelf unit 14 as a vertical component and re-designates it as a Chassis Management Module as opposed to the modules of Bishop. However, it is respectfully submitted that neither reference discloses a Chassis Management Module.

More particularly, In rejecting claims 1 and 11 the Examiner admits on page 2 of the 3rd Office Action that Patriche does not disclose the Chassis Management Module being removably mounted. The Examiner states:

"Patriche et al. disclose the instant claimed invention except for one Chassis Management Module being removably mounted therein the rack/chassis system."

"Bishop et al. disclose a chassis system (figures 1-3) having at least one Chassis Management Module (26, 28) being removably mounted therein the chassis system to control operation of another platform boards therein (Paragraphs 0078 and 0080-0081)."

Regarding the examiner's rejection of claims 2 and 12 the Examiner states:

"Regarding claims 2 and 12 Patriche et al. disclose the plenum (24) being a dual plenum and the Chassis Management Module (14) being positioned substantially vertical in the dual plenum (Figure 1)."

As stated, the Examiner is attempting to equate the shelf unit 14 disclosed by Patriche with applicant's Chassis Management Module. Referring to column 2, lines 39 through 40, Patriche states "a plurality of vertically spaced-apart cabinets or shelf units 14." One skilled in the art would clearly not look at shelf units (having a purely mechanical function) and arrive at a Chassis Management Module. As expressed in the claim language the Chassis Management Module is "designed to at least partially control and at least partially ensure proper operation of the modular platform boards"

Column 2 lines 41-42 of Patriche states "each shelf unit 14 includes a plurality of printed circuit board assemblies 16." Just for the sake of argument, even if one were to assume Patriche's shelf unit 14 could somehow suggest to one skilled in the art a Chassis Management Module, as applicant claims, Patriche's printed circuit board assemblies 16 are, by necessity in the same place. As discussed, and by contrast,

applicant claims two distinct sets of elements (modular platform boards and at least one Chassis Management Module) disposed within the modular platform implicitly in two different places.

Further, applicant's claims require "a chassis ...configured to receive modular platform boards". Admittedly, Patriche's shelf unit may be viewed as a chassis, but Patriche's shelf unit can not be viewed as both a chassis and a Chassis Management Module. Respectfully, the examiner has stretched Patriche's teachings beyond what is really shown and has attempted to make them fit what applicant claims.

The examiner also equates Patriche's intake port 24 to applicant's dual plenum (page 2, paragraph 2, line 7 of the Examiner's action). However, Patriche's shelf unit 14 (equated to applicant's Chassis Management Module by the examiner, as discussed) is not in Patriche's intake port. Therefore, applicants claim language "the Chassis Management Module is positioned substantially vertical in the dual plenum" is not met.

Bishop teaches multiple cabinet assemblies 14 in an environment (a room) 10. Each cabinet assembly 14 is cooled from below via conduit members 89 which extend from an aired cooled floor. Multiple electronic modules 26, 28, 30, 32 and 34 are essentially equally placed with regard to a plenum space 151 (i.e. adjacent thereto) within each cabinet assembly. None of Bishop's electronic modules are in Bishop's plenum space 151. In fact, nothing is in Bishop's plenum space 151. By contrast, applicant claims a "chassis management module designed ...disposed in the at least one plenum"

In addition, all of Bishop's electronic modules 26, 28, 30, 32 and 34 are essentially equal regarding control or management. None are designed to at least partially control and at least ensure proper operation of any of the others, as required by applicant's claims 2 and 12. Please refer to Paragraph [0078] of Bishop wherein it states:

"Although not illustrated, a plurality of table and data buses will be provided either within space 216 or laterally with respect to electronic modules 26, 28, 30, 32, and 34 that provide power to the modules and also enable data communications between the modules. "

There is no suggestion to have any of Bishop's modules do anything but act on coequal footing to exchange data.

Even if one were to assume that one skilled in the art would see Bishop's electronic modules as analogous to modular platform boards, it still leaves the reference silent on anything analogous to a Chassis Management Module. The examiner is applying impermissible hindsight by arbitrarily selecting two of Bishop's electronic modules and redefining them to be equivalent to applicant's at least one Chassis

Management Module. All of Bishop's electronic modules function at the same level. No module controls any other.

Neither Patriche nor Bishop provide any teaching whatsoever with regard to a Chassis Management Module, and further, none have provided any teaching with regard to where to place a chassis management moduler. By contrast the Applicant has provided an inventive placement of one or more Chassis Management Modules, i.e., "positioned substantially vertical in a dual plenum". Clearly the claimed invention as a whole is not obvious in view of Patriche or Bishop whether taken alone or in combination. Further, no motivation can be found in either reference to modify either, or both, to arrive at appican's invention as claimed. Reconsideration and allowance of claims 2 and 12 is respectfully requested.

Conclusion

Applicant submits all the claims in the present application, specifically claims 2-5, and 12-15 are in condition for allowance. A Notice of Allowance is respectfully requested.

If there are any questions, the Examiner is invited to contact the undersigned at (503) 796-2496. Also, the Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

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